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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 679 and 680

[Docket No. 150904826-5826-01]

RIN 0648-BF35

Fisheries of the Exclusive Economic Zone off Alaska; Fixed-Gear Commercial Halibut and Sablefish Fisheries; Bering Sea and Aleutian Islands Crab Rationalization Program; Cost Recovery Authorized Payment Methods

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule to revise the authorized methods for payment of cost recovery fees for the Halibut and Sablefish Individual Fishing Quota Program and the Bering Sea and Aleutian Islands Crab Rationalization Program. This proposed rule is necessary to improve data security procedures and to reduce administrative costs of processing cost recovery fee payments. The proposed rule is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Northern Pacific Halibut Act of 1982, the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands, the Fishery Management Plan for Groundfish of the Gulf of Alaska, the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs, and other applicable laws.

DATES: Submit comments on or before [*insert date 30 days after date of publication in the FEDERAL REGISTER*].

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2015-0113, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2015-0113*, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of the following documents are available from *http://www.regulations.gov* or from the NMFS Alaska Region Web site at *http://alaskafisheries.noaa.gov*:

- The Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) (collectively referred to as the “Analysis”) and the Categorical Exclusion prepared for this action.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this action may be submitted by mail to NMFS at the above address; by e-mail to *OIRA_Submission@omb.eop.gov*; or by fax to 202-395-5806.

FOR FURTHER INFORMATION CONTACT: Keeley Kent, 907-586-7228.

SUPPLEMENTARY INFORMATION

Authority for Action

NMFS manages the groundfish fisheries in the Federal exclusive economic zone (EEZ) off Alaska under the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands and under the Fishery Management Plan for Groundfish of the Gulf of Alaska. The North Pacific Fishery Management Council (Council) prepared the fishery management plans (FMPs) under the authority of the Magnuson Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMPs appear at 50 CFR parts 600 and 679.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut through regulations established under the authority of the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations governing the halibut fishery under the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention). The IPHC’s regulations are subject to approval by the Secretary of State with the concurrence of the

Secretary of Commerce (Secretary). NMFS publishes the IPHC's regulations as annual management measures pursuant to 50 CFR 300.62. The Halibut Act, at sections 773c(a) and (b), provides the Secretary with general responsibility to carry out the Convention and the Halibut Act. The Halibut Act, at section 773c(c), also provides the Council with authority to develop regulations, including limited access regulations, that are in addition to, and not in conflict with, approved IPHC regulations. Regulations developed by the Council may be implemented by NMFS only after approval by the Secretary. The Council developed the Individual Fishing Quota Program (IFQ Program) for the commercial halibut and sablefish fisheries, codified at 50 CFR part 679, under the authority of section 773 of the Halibut Act and section 303(b) of the Magnuson-Stevens Act.

The king and Tanner crab fisheries in the EEZ of the Bering Sea and Aleutian Islands are managed under the Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs (Crab FMP). The Crab FMP was prepared by the Council under the Magnuson-Stevens Act as amended by the Consolidated Appropriations Act of 2004 (Public Law 108–199, section 801). Regulations implementing the Crab FMP, including the Bering Sea and Aleutian Islands Crab Rationalization Program (CR Program), are located at 50 CFR part 680.

Background

This proposed rule would revise authorized payment methods in the cost recovery fee programs for the IFQ Program and the CR Program. The proposed rule would improve data security procedures for protecting financial information submitted to NMFS for payment of cost recovery fees by eliminating manual processing of credit card payments by NMFS and requiring use of the Federal Government's online payment system, pay.gov, for all credit card payments.

This proposed rule would also reduce administrative costs for the cost recovery programs by eliminating manual processing of paper check and money order payments and requiring electronic payment of all cost recovery fee payments to NMFS using pay.gov or Fedwire Funds Service (Fedwire) beginning with the cost recovery fee payment due in 2020. Reduced administrative costs to NMFS would result in lower expenses subject to cost recovery fees. Therefore, this action would be expected to reduce fees for participants in the IFQ Program and CR Program subject to a cost recovery fee relative to the status quo.

The following sections describe authorities for and operation of cost recovery programs, the cost recovery program for the IFQ Program, the cost recovery program for the CR Program, the current authorized cost recovery fee payment methods, the need for this proposed rule, and the proposed rule to improve administration of the cost recovery programs.

Cost Recovery—General

Section 304(d) of the Magnuson-Stevens Act specifies that the Secretary is authorized, and shall collect a fee, to recover the actual costs directly related to the management, data collection, and enforcement of any limited access privilege program (LAPP) and community development quota program (CDQ) that allocates a percentage of the total allowable catch of a fishery to such program. Section 304(d) also specifies that such fee shall not exceed three percent of the ex-vessel value of fish harvested under any such program.

The IFQ Program is a LAPP as defined in section 304(d) of the Magnuson-Stevens Act. NMFS implemented a cost recovery fee program for the IFQ Program in 2000 (65 FR 14919, March 20, 2000). Regulations implementing the IFQ Program cost recovery program are located at § 679.45. The CR Program is also a LAPP as defined in section 304(d) of the Magnuson-

Stevens Act. Section 313(j) of the Magnuson-Stevens Act provided supplementary authority to section 304(d) and additional detail for cost recovery provisions specific to the CR Program. NMFS implemented a cost recovery fee program with the final rule to implement the CR Program in 2005 (70 FR 10174, March 2, 2005). Regulations implementing the CR Program cost recovery program are located at § 680.44.

NMFS recovers the incremental costs of managing and enforcing the IFQ Program and CR Program annually through a fee paid by persons who hold a permit granting an exclusive access privilege to a portion of the total allowable catches in IFQ Program and CR Program fisheries. NMFS calculates cost recovery fees for fish that are landed and deducted from the total allowable catch in the fisheries subject to cost recovery.

To calculate the annual cost recovery fee for each permit holder in the IFQ Program and the CR Program, NMFS 1) calculates the ex-vessel value for each landing of a fishery species allocated under the program; 2) calculates the total ex-vessel value of all fish landed under the program by adding together the ex-vessel values of each fishery species under the program; 3) calculates the total program cost by adding together the incremental costs of management, data collection, and enforcement for each fishery under the program that would not have been incurred but for the implementation of the program; 4) calculates a fee percentage (not to exceed three percent of the ex-vessel value of fish harvested under any such program) for the program by dividing total program costs by the total ex-vessel value for all fishery species under the program; and 5) calculates the fee amount that will be assessed for each permit holder by multiplying the fee percentage by the permit holder's total ex-vessel value of landings under the program. The final figure is the annual cost recovery fee owed by each permit holder. The

amount of cost recovery fees collected varies annually because total ex-vessel value and total program costs fluctuate from year to year.

Cost Recovery for the IFQ Program

The Council recommended the IFQ Program in 1992, and NMFS published a final rule to implement the IFQ Program on November 9, 1993 (58 FR 59375). Fishing under the program began on March 15, 1995. The IFQ Program limits access to the halibut and sablefish fisheries to those persons holding quota shares (QS) in specific regulatory areas. QS equate to individual harvesting privileges that are given effect annually through the issuance of IFQ permits. An annual IFQ permit authorizes the permit holder to harvest a specified amount of IFQ halibut or sablefish in a regulatory area.

The final rule to implement the cost recovery program for the IFQ fishery was published in March 2000 (65 FR 14919, March 20, 2000). Section 679.45 specifies the process that NMFS uses to determine, assess, and collect cost recovery fees for the IFQ Program. As described above in the “Cost Recovery – General” section, NMFS annually calculates the cost recovery fee percentage for halibut and sablefish IFQ permit holders by dividing total program costs for the IFQ Program by the total ex-vessel value of the catch subject to the IFQ cost recovery fee for the current year. The IFQ Program fishing year takes place within a calendar year, generally beginning in March and ending in November. The method used by NMFS to calculate the IFQ cost recovery fee percentage is described at § 679.45(d)(2)(ii). Regulations at § 679.45(d)(1) and (d)(3)(i) require NMFS to publish the IFQ cost recovery fee percentage and the IFQ standard prices used to calculate the total ex-vessel value of IFQ halibut and sablefish landed in the

Federal Register during the last quarter of each calendar year. NMFS published the 2014 IFQ cost recovery fee percentage and IFQ standard prices on December 9, 2014 (79 FR 73045).

Each December, NMFS sends IFQ permit holders a bill for the cost recovery fee liability with an itemization of their IFQ halibut and sablefish landings for the year. The IFQ permit holder is responsible for submitting this payment to NMFS on or before the due date of January 31 following the year in which the IFQ halibut and sablefish landings were made.

If an IFQ permit holder who owes a fee fails to submit payment in full by January 31 following the year in which the landings were made, NMFS sends the permit holder an Initial Administrative Determination (IAD) with the amount of fee liability owed. If a permit holder fails to make payment after receiving the IAD, NMFS may disapprove any transfer of IFQ or QS to or from the permit holder until the fee liability is reconciled. If further action is necessary, NMFS may invalidate any IFQ fishing permits held by the permit holder. Additional information on the administration of the IFQ Program cost recovery program is provided in Section 3.5.1.2 of the Analysis.

Cost Recovery for the CR Program

NMFS published the final rule to implement the CR Program in 2005 (70 FR 10174, March 2, 2005). The CR Program allocates QS for nine crab fisheries under the Crab FMP: Bristol Bay red king crab, Bering Sea *C. opilio* (snow crab), Eastern Bering Sea *C. bairdi* (Tanner crab), Western Bering Sea *C. bairdi* (Tanner crab), Pribilof Islands blue and red king crab, St. Matthew Island blue king crab, Western Aleutian Islands (Adak) golden king crab, Eastern Aleutian Islands (Dutch Harbor) golden king crab, and Western Aleutian Islands (Adak) red king crab.

NMFS originally issued QS to eligible harvesters as determined by eligibility criteria and participation in the CR Program fisheries during qualifying years. Additionally, NMFS issued processor quota shares (PQS) to eligible processing entities that met the criteria based on crab processing activities during the qualifying years. Each year, individual QS holders are issued IFQ to harvest a portion of the annual total allowable catch in a CR Program fishery. PQS holders are similarly issued annual individual processing quota (IPQ) that allow entities to receive deliveries of CR Program crab.

NMFS issues three classes of IFQ: A shares, B shares, and C shares. Three percent of the total IFQ pool for each fishery is issued as C shares for captains and crew. The remaining IFQ pool is split with 90 percent issued as A shares and 10 percent issued as B shares. Class A shares carry the requirement of matching, on a one-to-one basis, with IPQ. Both Class B and Class C shares do not have a matching requirement and may be delivered to any registered crab receiver (RCR). RCRs include shoreside processors, catcher/processors, entities holding PQS with custom processing agreements with other shoreside processors, and communities holding PQS.

The cost recovery regulations for the CR Program were published in the final rule to implement the CR Program on March 2, 2005 (70 FR 10174). Section 680.44 specifies the process that NMFS uses to determine, assess, and collect cost recovery fees for the CR Program. As described above in the “Cost Recovery – General” section, NMFS annually calculates the cost recovery fee percentage for the CR Program by dividing total program costs for the CR Program by the total ex-vessel value of the catch subject to the CR Program cost recovery fee for the current year. The CR Program cost recovery billing cycle matches that of the crab fishing year—July 1 to June 30. The method used by NMFS to calculate the CR Program cost recovery

fee percentage is described at § 680.44(c)(2). As specified in the final rule to implement the CR Program, the CR Program processing sector, specifically RCRs, are responsible for collecting cost recovery fee payments from the harvesters and submitting this payment and their own self-collected fee payments to NMFS by the specified deadline. Catcher/processors, vessels that harvest and process crab, pay the full CR Program cost recovery fee for every pound of crab harvested and processed.

Regulations at § 680.44(c)(1) require NMFS to publish the CR Program cost recovery fee percentage in the **Federal Register** during the first quarter of the crab fishing year, which is used by CR Program permit holders and RCRs to collect cost recovery fees throughout the crab fishing year. This is different from the IFQ Program, which applies the fee percentage to the landings that occurred during the most recent fishing year. NMFS published the 2015/2016 CR Program cost recovery fee percentage in July 2015 (80 FR 42792, July 20, 2015). NMFS provides an itemized bill of cost recovery fee liabilities to all RCRs during the last quarter of the crab fishing year. The RCR is responsible for submitting payment to NMFS on or before the due date of July 31, following the crab fishing year in which payment for the crab is made.

If an RCR owes fees and fails to submit full payment for the previous crab fishing year by July 31, the Regional Administrator may disapprove any transfer of IFQ, IPQ, QS, or PQS to or from the RCR and may withhold issuance of any new CR crab permits, including IFQ, IPQ, or RCR permits for the subsequent crab fishing year. Additional information on the administration of the CR Program cost recovery program is provided in Section 3.5.2.2 of the Analysis.

Authorized Cost Recovery Payment Methods

Cost recovery regulations for the IFQ Program and CR Program (§ 679.45(a)(4)(iv) and § 680.44(a)(4)(iv), respectively) currently allow permit holders to pay their fee in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank-certified check, or credit card. NMFS has established specific procedures for processing payments. IFQ Program and CR Program permit holders may submit cost recovery fee payments either electronically or non-electronically. Electronic payments can be made using credit card or electronic check via the pay.gov web-based system, or by wiring payment directly from the permit holder's financial institution via the Fedwire funds transfer system. Non-electronic payments can be made by submitting a paper form to NMFS with credit card information via mail or facsimile, or by submitting a paper check or money order via mail. This section provides additional detail on each authorized payment method regarding the security of permit holders' financial information and the administrative costs incurred by NMFS to process the payments.

Electronic payments

Electronic payments via the pay.gov system and the Fedwire system are the most secure methods of transmitting financial information and result in the lowest administrative costs for NMFS. Permit holders may make electronic cost recovery payments directly through pay.gov. Pay.gov is operated by the U.S. Department of the Treasury (Treasury) and offers the highest level of security for the personal and financial information submitted to pay fees to NMFS. Pay.gov uses the latest industry-standard methods and encryption to safely collect, store, and transmit information that is submitted.

IFQ Program and CR Program permit holders can access pay.gov through the NMFS Alaska Region online system called eFISH. The eFISH system is a web-based application that

provides permit holders with access to their NMFS permit accounts

(<https://alaskafisheries.noaa.gov/webapps/efish/login>). When an IFQ Program or CR Program permit holder logs on to eFISH to pay a cost recovery fee liability, the system automatically loads the amount owed by that permit holder into pay.gov.

Through pay.gov, permit holders can make cost recovery payments using a credit card, debit card, or direct debit (electronic check). Due to the transaction fee incurred by the Treasury, there is a payment limit of \$24,999.99 on credit card transactions through pay.gov (see notice online at: <http://tfm.fiscal.treasury.gov/v1/announc/a-14-04.html>). There is currently no payment limit on debit card or direct debit payments. Payments made through pay.gov automatically update the NMFS internal cost recovery payment tracking system to reflect the payment.

Under the current regulations, permit holders may also make cost recovery fee payments through Fedwire. Fedwire is a real-time transfer system that allows financial institutions to electronically transfer funds. Fedwire allows wire transfers of fee payments from any bank or wire transfer service to NMFS to fulfill cost recovery fee obligations. To make a Fedwire payment, a permit holder must provide his or her financial institution the routing number and account information for the Treasury, the beneficiary name and account number for NMFS, and the amount owed. The permit holder's financial institution then initiates the transaction. Payments are made directly to the Federal Reserve Bank, which then notifies NMFS of the payment. Payments are processed individually through Fedwire, which uses a highly secure electronic network. NMFS must log Fedwire payments in the internal cost recovery payment tracking system.

Non-electronic payments

Non-electronic submission of payment information to NMFS via mail or facsimile is less secure and results in higher administrative costs than electronic payments because it results in transmission of permit holders' financial information over the NMFS information network and requires NMFS to manually process payments. Under current regulations, permit holders may pay a cost recovery fee with a credit card by submitting a form via mail or facsimile with their credit card information to NMFS. Manual credit card processing results in the possession and transmission of IFQ Program and CR Program permit holders' credit card information over the NMFS information network. Manual credit card processing is a less secure method of payment than the permit holder directly entering their credit card information into pay.gov, and results in higher administrative costs for NMFS. Administrative costs to collect fees are subject to cost recovery. Therefore, the higher administrative costs to process credit cards manually results in an increased fee liability for the IFQ and CR Programs relative to electronic payments.

Permit holders may also pay a cost recovery fee with a paper check, money order, or bank-certified check. NMFS processes these payments using a Treasury web-based application (https://www.fiscal.treasury.gov/fsservices/gov/rvnColl/otcnet/rvnColl_otcnet.htm). The checks are scanned into the internal cost recovery payment tracking system and batched for deposit the following day. NMFS must then check the system to ensure that each check has cleared. NMFS manually updates the internal cost recovery payment tracking system to reflect the payment. Discrepancies or errors between the cost recovery amount owed and the amount paid by check must be addressed by NMFS. Payment with paper check, money order, or bank-certified check results in higher administrative costs for NMFS, and those additional costs increase the fee liability for the IFQ and CR Programs relative to electronic payments.

In 2014 for the IFQ Program, NMFS received 2,038 total cost recovery fee payments from IFQ permit holders, with an average payment size of \$2,440 (Table 4 of the Analysis). Of the total payments made, 528 cost recovery fee payments required manual credit card processing (Table 2 of the Analysis), which represented 26 percent of the total cost recovery payments made that year. The number of payments requiring manual credit card processing increased slightly from 2013 to 2014. In 2014, there were 986 payments made by paper check (48 percent of payments) and 19 made by money order (0.9 percent of payments). Overall, manual processing for credit card, paper check, and money order payments was required for 75 percent of cost recovery fee payments made under the IFQ Program for 2014 (1,533 payments); the remaining 25 percent of payments were made electronically primarily via pay.gov (Table 4 of Analysis).

In 2014 for the CR Program, NMFS received 20 total cost recovery fee payments from CR Program permit holders, with an average payment size of \$78,310 (Table 5 of the Analysis). There were no cost recovery payments made from 2012 through 2014 by CR Program RCRs that required manual credit card processing (Table 3 of the Analysis). This may be because the CR Program payments are considerably larger than the IFQ Program payments due to the payment liability structure that requires RCRs to submit cost recovery fee payments on behalf of the CR Program harvesting and processing sectors. In 2014, 50 percent of payments (10 payments) were made with paper checks and required manual processing (Table 3 of the Analysis), and the remaining 50 percent of payments (10 payments) were made electronically using pay.gov and Fedwire.

Need for this Proposed Rule

The purpose of this proposed rule is to improve security procedures for protecting financial information and to reduce costs associated with administering the cost recovery programs. The current regulations for the IFQ Program and the CR Program cost recovery programs allow permit holders to submit credit card information for manual credit card processing by NMFS. This results in the possession and electronic transmission of financial information on the NMFS information network, which is a security vulnerability and an administrative cost to both the permit holder and to NMFS. As a result of this security vulnerability, the NMFS Alaska Region has been directed by the NOAA Office of the Chief Information Officer to cease manual processing of credit card payments for cost recovery fees.

This proposed rule would also reduce administrative costs for the IFQ Program and CR Program by eliminating other non-electronic payment methods that require manual processing. As described in the previous section, all manual processing of cost recovery fee payments made by check and money order generates significant costs for the administration of these programs. Eliminating these non-electronic payment methods from authorized payment method options would reduce the staffing burden for processing cost recovery fee payments and further reduce the costs of administering the cost recovery programs. Reduced administrative costs would result in lower overall fee liabilities for the IFQ and CR Programs.

Proposed Rule

NMFS proposes to revise the authorized cost recovery fee payment methods for the IFQ and CR Programs by revising regulations at § 679.45(a)(4)(ii) through (iv) and § 680.44(a)(4)(iii) and (iv). This proposed rule would eliminate the option for IFQ permit holders and CR Program RCRs to submit credit card payment information by mail or facsimile

upon the effective date of the final rule, if approved. NMFS anticipates the final rule, if approved, would be effective prior to the date cost recovery fee payments are due for the 2015/2016 CR Program crab fishing year and the 2016 IFQ Program fishing year. The cost recovery fee payment for the CR Program 2015/2016 crab fishing year would be due on July 31, 2016. The cost recovery fee payment for the 2016 IFQ Program fishing year would be due on January 31, 2017.

This proposed rule would also revise the cost recovery regulations to eliminate paper checks, money orders, and bank-certified checks as authorized payment methods beginning with the cost recovery fee payment that would be due by January 31, 2020 for the IFQ Program and July 31, 2020 for the CR Program. If approved, the final rule would require all permit holders to submit payments through pay.gov or Fedwire beginning with the cost recovery fee payment due for the 2019 fishing year for IFQ Program permit holders and for the 2019/2020 CR Program crab fishing year for CR Program RCRs. To implement this provision, NMFS proposes that all cost recovery fee payments must be made electronically for any payment made on or after the first day of the billing cycle for IFQ Program and CR Program cost recovery fee payments that would be due in 2020. The billing cycle is considered the time period that begins when NMFS calculates cost recovery fees and mails out cost recovery payment notices and ends when the cost recovery fee payment is due. The first day of the 2020 IFQ Program cost recovery billing cycle would be December 1, 2019. The first day of the 2019/2020 CR Program cost recovery billing cycle would be June 1, 2020. NMFS is proposing allowing non-electronic payments via paper check or money order until the 2020 cost recovery fee cycle to provide a transition period for

those permit holders who do not make electronic payments to become familiar with, and begin transitioning to, electronic payment methods.

Table 1 contains the anticipated implementation schedule for the proposed rule to revise authorized cost recovery fee payment methods.

Table 1. Implementation Schedule for Proposed Changes to Authorized Cost Recovery Fee Payment Methods.

Payment type	Current authorized options	2016 - 2019 fee payment cycle authorized options	2020 and future year fee payment cycle authorized options
Non-electronic	Credit card form Paper check Money order	- Paper check Money order	- - -
Electronic	Pay.gov Fedwire	Pay.gov Fedwire	Pay.gov Fedwire

NMFS anticipates that this proposed rule would affect 1,533 IFQ Program permit holders and 10 CR Program RCRs who would need to change their payment method. This proposed rule would require the 528 IFQ permit holders who made non-electronic credit card payments in 2014 to change to an alternative payment method upon the effective date of the final rule, if approved. Beginning with the 2020 cost recovery billing cycle, the 1,005 IFQ permit holders and 10 CR Program RCRs who paid by paper check or money order in 2014 would be required to use an alternative payment method.

Under this proposed rule, permit holders paying cost recovery fees would benefit from the increased security of their financial information and a reduction in the total amount of cost recovery fees collected due to the reduced administrative costs of processing fee payments. The actual administrative cost savings of this proposed rule are difficult to predict due to the unknown staff costs required to help permit holders transition to new payment methods and how

quickly permit holders may change payment methods prior to the 2020 fee collection cycle. After 2020, NMFS expects the administrative costs of processing payments to decrease as compared to the current costs. The costs to permit holders of changing payment methods are difficult to assess. However, both IFQ Program permit holders and CR Program RCRs are currently required to submit fishery landings information to NMFS using electronic reporting methods; so it is expected that requiring electronic cost recovery fee payments would be a manageable cost for most participants.

NMFS anticipates that this proposed rule would have minimal impacts on net benefits to the Nation. Overall, this action would likely result in a small net benefit from the reduction in the total amount of cost recovery fees collected due to the reduced administrative costs of processing cost recovery fee payments.

Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined this proposed rule is consistent with the FMPs, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration of comments received during the public comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Initial Regulatory Flexibility Analysis

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small

entities. Copies of the IRFA prepared for this proposed rule are available from NMFS (see **ADDRESSES**).

The IRFA describes the action, why this action is being proposed, the objectives and legal basis for this proposed rule, the type and number of small entities to which this proposed rule would apply, and the projected reporting, recordkeeping, and other compliance requirements of this proposed rule. It also identifies any overlapping, duplicative, or conflicting Federal rules and describes any significant alternatives to this proposed rule that would accomplish the stated objectives of the Magnuson-Stevens Act and other applicable statutes and that would minimize any significant adverse economic impact of this proposed rule on small entities. The description of this proposed rule, its purpose, and its legal basis are described in the preamble and are not repeated here.

Number and Description of Small Entities Directly Regulated by the Proposed Rule

The entities directly regulated by this proposed rule are permit holders who make halibut and sablefish landings in the IFQ Program fisheries and RCRs who receive landings of crab in the CR Program fisheries. The universe of entities was defined based on who is directly billed by NMFS for cost recovery fees, and therefore who would be directly impacted by a change in the authorized payment methods. The Small Business Administration defines a small commercial finfish fishing entity as one that has annual gross receipts, from all activities of all affiliates, of less than \$20.5 million (79 FR 33647, June 12, 2014). Based upon available data, and more general information concerning the probable economic activity of vessels in the IFQ Program fisheries, no entity could have landed more than \$20.5 million in combined gross receipts in 2014. Therefore, all 2,038 IFQ permit holders are classified as small entities. Under

the CR Program, 11 RCRs are classified as small entities. Section 4.6 of the IRFA prepared for this proposed rule provides more information on these entities.

Recordkeeping and Reporting Requirements

This proposed rule would require modifications to the current recordkeeping and reporting requirements for the IFQ Program and CR Program cost recovery programs in the Alaska Cost Recovery and Observer Fee collection (OMB Control Number 0648-0711). Specifically, this proposed rule would eliminate the option for payment by credit card using the paper fee submission form submitted to NMFS by mail or facsimile. Beginning with the 2020 cost recovery fee billing cycle, the paper fee submission form will be eliminated completely for the CR Program as permit holders will be required to submit all cost recovery fee payments electronically through the pay.gov or Fedwire systems. For the IFQ Program, beginning in 2020, the paper fee submission form would be revised to specify that all fee payments must be made electronically through pay.gov or the Fedwire systems.

Federal Rules that May Duplicate, Overlap, or Conflict with this Proposed Rule

The Analysis did not reveal any Federal rules that duplicate, overlap, or conflict with this proposed rule.

Description of Significant Alternatives to this Proposed Rule that Minimize Economic Impacts on Small Entities

The Magnuson-Stevens Act requires that participants in LAPP and CDQ programs pay up to three percent of the ex-vessel value of the fish they are allocated to cover specific costs that are incurred by the management agencies as a direct result of implementing the programs. NMFS has identified this proposed rule as necessary to improve data security procedures for

permit holders' financial information and to reduce administrative costs of processing cost recovery payments. There are no alternatives outside those evaluated in the Analysis that, consistent with applicable law, will accomplish the objectives of this rule, and result in lower adverse economic impacts on directly regulated small entities.

NMFS considered eliminating the submission of credit card payment information by phone, in person, facsimile, and mail and retaining the use of paper checks and money orders as authorized payment methods under Alternative 2 in the Analysis. However, Alternative 2 failed to meet the objective of reducing administrative costs associated with administering the cost recovery programs because processing these payments results in a greater staff burden than processing payments made by the pay.gov or Fedwire systems (see Section 3.7 of the Analysis). NMFS also considered Alternative 3, which would have simultaneously implemented both the elimination of credit card payment by phone, in person, facsimile, and mail, and the elimination of paper check and money order payment (see Section 3.8 of the Analysis). However, NMFS rejected Alternative 3 in favor of Alternative 3 Option 1 which accommodated for the transition costs to permit holders in complying with the proposed rule by delaying full implementation of the proposed changes until the applicable cost recovery fee payment due date in 2020. NMFS determined that Alternative 3 Option 1 would provide an opportunity for the permit holders to become familiar with either pay.gov or Fedwire and change to a new payment method. Additionally, Alternative 3 Option 1 would spread out any transition costs for NMFS staff in providing customer service to help permit holders affected by the change (see Section 3.8.1 of the Analysis).

Collection-of-Information Requirements

This proposed rule contains collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). NMFS has submitted these requirements to OMB for approval under Control Number 0648-0711. Public reporting burden per response is estimated to average one minute for electronic fee submission and 30 minutes for non-electronic fee submission. Estimates for public reporting burden include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS at the **ADDRESSES** above and by e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

List of Subjects

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 680

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: December 22, 2015

Eileen Sobeck,
Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 679 and 50 CFR part 680 as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for 50 CFR part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1801 *et seq.*; 3631 *et seq.*; Pub. L. 108-447; Pub. L. 111-281.

2. In § 679.45, revise paragraphs (a)(4)(ii) through (iv) to read as follows:

§ 679.45 IFQ cost recovery program.

(a) * * *

(4) * * *

(ii) *Payment recipient.* Make payment payable to NMFS.

(iii) *Payment address.* Submit payment and related documents as instructed on the fee submission form. Payments may be made electronically through the NMFS Alaska Region Web site at <http://alaskafisheries.noaa.gov>. Instructions for electronic payment will be made available on both the payment Web site and a fee liability summary letter mailed to the IFQ permit holder.

(iv) *Payment method*—(A) Prior to December 1, 2019, payment must be made in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank-certified check, or electronically by credit card.

(B) On or after December 1, 2019, payment must be made electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.

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PART 680—SHELLFISH FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

3. The authority citation for 50 CFR part 680 continues to read as follows:

Authority: 16 U.S.C. 1862; Pub. L. 109-241; Pub. L. 109-479.

4. In § 680.44, revise paragraphs (a)(4)(iii) and (iv) to read as follows:

§ 680.44 Cost recovery.

(a) * * *

(4) * * *

(iii) *Payment address.* Submit payment and related documents as instructed on the fee submission form. Payments may be made electronically through the NMFS Alaska Region Web

site at <http://alaskafisheries.noaa.gov>. Instructions for electronic payment will be made available on both the payment Web site and a fee liability summary letter mailed to the RCR permit holder.

(iv) *Payment method*—(A) Prior to June 1, 2020, payment must be made in U.S. dollars by personal check drawn on a U.S. bank account, money order, bank-certified check, or electronically by credit card.

(B) On or after June 1, 2020, payment must be made electronically in U.S. dollars by automated clearing house, credit card, or electronic check drawn on a U.S. bank account.

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